

IN THE UNITED STATES DISTRICT COURT
OF THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

TOMMY O'BRYANT

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:18-cv-00008-HSO-JCG

**WALGREEN, CO., CBRE GROUP, INC.,
JOHN OR JANE DOES 1-10**

DEFENDANTS

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S [46] MOTION TO COMPEL DISCOVERY RESPONSES**

THIS CAUSE CAME ON for hearing, on August 10, 2018, on Plaintiff's [46] Motion to Compel Discovery Responses filed by the Plaintiff, Tommy O'Bryant. The Motions have been fully briefed and having heard arguments and considered the applicable law, the Court finds that the Motion should be granted in part and denied in part, as follows, to-wit:

I. Background

According to the Complaint [1], this is a negligence and premise liability action brought by Tommy O'Bryant against Defendant, Walgreen, Co., and Defendant, CBRE GROUP, Inc., for injuries suffered by Tommy O'Bryant when he was struck by a vehicle while standing outside of a Walgreens in Biloxi, MS on February 27, 2015, causing Mr. O'Bryant to suffer serious and catastrophic injuries. See Compl. [1], 2-4.

II. Analysis

Plaintiff seeks discovery regarding storefront crashes and vehicle incursions at all Walgreen locations because of the alleged similarity of the stores located

throughout the country. Specifically, the Court finds as follows:

INTERROGATORIES

1. **INTERROGATORY NUMBER 3:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
2. **INTERROGATORY NUMBER 7:** Plaintiff's Motion to Compel is granted as to Interrogatory Number 7 but limited to the Biloxi Walgreen Co. store. Defendant's supplemental response is sufficient.
3. **INTERROGATORY NUMBER 8:** Plaintiff's Motion to Compel is denied as to Interrogatory Number 8.
4. **INTERROGATORY NUMBER 9:** Plaintiff's Motion to Compel is granted as to Interrogatory Number 9 but limited to the Biloxi Walgreen Co. store. Defendant is directed to supplement its response by September 10, 2018.
5. **INTERROGATORY NUMBER 10:** Plaintiff's Motion to Compel is granted as to Interrogatory Number 10 but limited as follows: Describe in detail any incidents of which Defendant is aware that occurred where a person was injured by a vehicle incursion or storefront crash on the premises of any Walgreen Co. location during the ten-year period prior to your responses to these Interrogatories. For each incident please provide the date, location, the parties involved (including their addresses, phone numbers, and/or email address), and a brief factual description of the incident. Defendant is directed to supplement its response by September 10, 2018.

6. **INTERROGATORY NUMBER 12:** Plaintiff's Motion to Compel is granted as to Interrogatory Number 12 but limited as follows: Describe in detail, to include the date and a brief factual description, of any incidents Defendant is aware of, subject to its contract with Walgreen Co., that occurred in substantially the same or in a similar manner as the incident that is the basis of this lawsuit, either at the Biloxi location or any other Walgreen Co. location, during the ten-year period prior to your responses to these Interrogatories. This Interrogatory is not limited to occurrences where someone was injured. Defendant is directed to supplement its response by September 10, 2018.
7. **INTERROGATORY NUMBER 13:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
8. **INTERROGATORY NUMBER 14:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
9. **INTERROGATORY NUMBER 16:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
10. **INTERROGATORY NUMBER 17:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
11. **INTERROGATORY NUMBER 18:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
12. **INTERROGATORY NUMBER 19:** Plaintiff's objection to Defendant's supplemental response is withdrawn.

13. **INTERROGATORY NUMBER 20:** Plaintiff's Motion to Compel is denied as to Interrogatory No. 20.

14. **INTERROGATORY NUMBER 21:** Plaintiff's Motion to Compel is denied as to Interrogatory No. 21.

15. **INTERROGATORY NUMBER 22:** Plaintiff's objection to Defendant's supplemental response is withdrawn.

REQUESTS FOR PRODUCTON

1. **REQUEST FOR PRODUCTION NUMBER 1:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
2. **REQUEST FOR PRODUCTION NUMBER 6:** Plaintiff's Motion to Compel is granted as to Request for Production Number 6 but limited as follows: Produce the original or true legible copies of any and all documents responsive to Interrogatory Number 10 and Interrogatory Number 12. Defendant is directed to supplement its response by September 10, 2018.
3. **REQUEST FOR PRODUCTION NUMBER 11:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
4. **REQUEST FOR PRODUCTION NUMBER 12:** Plaintiff's objection to Defendant's supplemental response is withdrawn.
5. **REQUEST FOR PRODUCTION NUMBER 13:** Plaintiff's Motion to Compel is denied as to Request for Production Number 13.
6. **REQUEST FOR PRODUCTION NUMBER 16:** Plaintiff's objection to Defendant's supplemental response is withdrawn.

7. **REQUEST FOR PRODUCTION NUMBER 17:** Plaintiff's Motion to Compel is granted as to Request for Production Number 17 but limited as follows: Produce the original or true legible copies of any and all documents responsive to Interrogatory Number 10 and Interrogatory Number 12. Defendant is directed to supplement its response by September 10, 2018.

8. **REQUEST FOR PRODUCTION NUMBER 18:** Plaintiff's objection to Defendant's supplemental response is withdrawn.

9. **REQUEST FOR PRODUCTION NUMBER 19:** Plaintiff's Motion to Compel is denied as to Request for Production Number 19.

10. **REQUEST FOR PRODUCTION NUMBER 21:** Plaintiff's Motion to Compel is denied as to Request for Production Number 21.

11. **REQUEST FOR PRODUCTION NUMBER 25:** Plaintiff's objection to Defendant's supplemental response is withdrawn.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion to Compel is **GRANTED IN PART AND DENIED IN PART** as stated herein.

SO ORDERED AND ADJUDGED on this the 24th day of August, 2018.

s/ John C. Gargiulo
JOHN C. GARGIULO
UNITED STATES MAGISTRATE JUDGE

Approved as to Form ONLY:

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